



## [ECtHR - L.B. v. Lithuania](#)

The applicant is a permanent resident who was previously granted subsidiary protection after fleeing his country of origin. Lithuanian authorities refused to issue a travel document to the applicant on the grounds that the applicant could request such a document from the authorities of his country of origin. The Court held that there had been a violation under Article 2 of Protocol No. 4 of the Convention.

**Case name (in original language) :** ECtHR - L.B. v. Lithuania

**Case status:** Decided

**Case number:** Application no. 38121/20

**Citation:** European Court of Human Rights, L.B. v. Lithuania (application no. 38121/20), 14 June 2022

**Date of decision:** 14/06/2022

**State:** Lithuania

**Court / UN Treaty Body:** European Court of Human Rights

**Language(s) the decision is available in:** English

**Applicant's country of residence:** Lithuania

**Legal instruments:** European Convention on Human Rights (ECHR), European Union law

**Key aspects:** Access to social and economic rights, Passport restoration, Stateless status and documentation

**Relevant Legislative Provisions:**

European Convention of Human Rights Article 2 protocol No. 4

### **Facts**

The applicant fled from the Chechen Republic in 2001, where he had fought alongside Chechen forces in the two Chechen wars, and arrived in Lithuania, where he subsequently applied for asylum. Lithuanian authorities refused to grant the

applicant refugee status in 2003 and 2005 on the grounds that he failed to demonstrate that he had been persecuted in his country of origin.

The applicant was, however, issued with a temporary residence permit on subsidiary protection grounds, which was granted yearly between 2003 and 2008. In 2008, the applicant obtained a permanent residence permit, valid for five years, on the grounds that he had been lawfully living in Lithuania for five years, which was further extended in 2013 and 2018.

In 2003, the applicant also applied for an alien's passport, which Lithuanian authorities granted. Between 2004 and 2013, the applicant applied for and was issued for a new passport when his expired. In 2018, the applicant lodged a new passport request, which Lithuanian authorities denied on the grounds that Russian nationals living abroad could obtain a passport at the embassy, so the applicant should be able to obtain a travel document from Russian authorities.

The applicant again requested a passport, reasoning that he was unable to contact Russian authorities without putting himself in an unsafe position. He further submitted that, although in Lithuania he was considered a Russian national, there were no documents confirming this, and he should be considered stateless. He supported the creation of an independent Chechen Republic, had no links to Russia, had never applied for Russian citizenship, and never held a Russian passport.

Lithuanian authorities again refused, countering there were no grounds to consider the applicant stateless as he had been considered a Russian national since arriving in 2001 and had no documents to refute that. Lithuanian authorities further requested proof that he had applied for a travel document at the Russian embassy and had been refused.

### **Legal arguments by the applicant**

The applicant complained that Lithuanian authorities refused to acknowledge that he was at a real risk of persecution. He contended that, during domestic proceedings, he had provided objective reasons why he could not contact the Russian authorities as former Chechen fighters were still being persecuted in Russia.

The applicant submitted that the Government had failed to demonstrate that the refusal to issue him with a passport had pursued any legitimate aim and had been necessary in a democratic society, emphasizing that he had not committed any

crimes and did not pose any threat to national security or public order.

The applicant further complained that he was unable to enjoy freedom of movement without having a valid travel document, which was necessary to travel outside the Schengen Area. As the applicant worked in cargo transportation, the refusal also restricted his ability to carry out his professional activities.

### **Legal arguments by the opposing party**

The Government acknowledged that the refusal to issue the applicant with an alien's passport had amounted to interference with his right to freedom of movement, however, they maintained that the interference had been justified.

Lithuanian authorities found that the applicant failed to provide objective reasons why he was unable to obtain such a document from the authorities of his country of origin, which is required to obtain an alien's passport under the Law on the Legal Status of Aliens. Further, domestic authorities had properly considered all relevant circumstances of the applicant's situation and found that he failed to demonstrate that he was personally at risk of persecution by the authorities.

They argue that there is no longer any objective reason why the applicant would not be able to request a travel document from Russian authorities. He was issued an alien's passport between 2003 and 2013 because Russian nationals did not have any possibility of obtaining a travel document outside of Russia, which is no longer necessary due to a change in the procedure.

Lastly, the Government submitted that the restrictions on his freedom of movement had not been disproportionate. As a permanent resident of Lithuania, the applicant had the right to move freely within the territory of EU Member States for 90 days in any 180-day period without a travel document.

### **Decision & Reasoning**

The Court found that there had been a violation of Article 2 of Protocol No. 4 to the Convention as the Lithuanian government failed to demonstrate that the interference with the applicant's right to freedom of movement was necessary in a democratic society.

Any measure by means of which an individual is denied the use of a document which, had he wished, would have permitted him to leave the country, amounts to

an interference of the rights guaranteed by Article 2 of Protocol No. 4 of the Convention. Accordingly, the Court has no reason to doubt that the refusal by Lithuanian authorities to issue the applicant with an alien's passport constituted an interference with his freedom of movement.

An interference with a person's right to leave must be "in accordance with law" and pursue one or more of the legitimate aims set out in Article 2 § 3 of Protocol No. 4 and be "necessary in a democratic society" to achieve such an aim. This refusal could not be considered "necessary in a democratic society."

The Court notes that the Lithuanian authorities acknowledged that the applicant could not safely return to his country of origin. It is not disputed that the applicant left his country of origin with the intention of seeking asylum abroad and was granted subsidiary protection in Lithuania on several occasions. At no point did the domestic authorities decide, taken after assessing the situation in the applicant's country of origin and his individual circumstances, that he was no longer in need of subsidiary protection and could approach the Russian authorities without fear. Additionally, although the applicant argued that he was afraid to contact the Russian authorities, for the same reasons for which he had previously been granted subsidiary protection, those arguments were not adequately addressed in the domestic proceedings.

The refusal to issue the applicant with an alien's passport was taken without ensuring that such a measure was justified and proportionate in his individual situation. The refusal was based on formalistic grounds without adequate examination of the situation in his country of origin, as well as on the purported possibility of obtaining a Russian passport, without any assessment of whether that possibility was accessible to him in practice in view of his particular circumstances.

### **Decision documents**

[CASE OF L.B. v. LITHUANIA.pdf](#)

### **Outcome**

The Court held that there had been a violation of Article 2 of Protocol No. 4 of the Convention.